

REMARKS

Claims 1-16 are pending in this application, of which claim 1 is a solo independent claim. In this Amendment, claims 5-10 have been amended to correct minor errors, and the specification (the title of the invention) has also been amended. Care has been exercised to avoid introduction of new matter.

Skinner et al. (2003/0116969) in Form PTO-892

In consideration of paragraph 49 (lines 9-10 of the paragraph) of the present Office Action, Applicants believe that Skinner et al. (2003/0116969) in Form PTO-892 was intended to be Hatanaka et al. (2006/0116969). Applicants respectfully request the Examiner to clarify the record by providing corrected Form PTO-892.

Drawings

Objection has been made to the drawings because the Examiner believes that Fig. 1 should have a "prior art" label. Applicants respectfully traverse this objection because Fig. 1 is presented not to describe prior art, but to describe the concept of the claimed subject matter (see, e.g., page 11, lines 15-17 of the specification). Withdrawal of the objection is, therefore, respectfully solicited.

Specification

The Examiner requested the new title of the invention. The title has been amended to be --Data Storing Device for Classified Data--. Withdrawal of the objection to the specification is respectfully solicited.

Claim Objections

Claims 1-16 have been objected to because the word “cipher” is misspelled. Claims 5-10 including the misspelled word “cipher” have been amended to address the issues raised by the Examiner. Applicants, therefore, respectfully solicit withdrawal of the objection to the claims.

Claim Rejections under 35 U.S.C. §102

Claims 1-6, 8, 9, 11-13, and 16 have been rejected under 35 U.S.C. §102(a) as being anticipated by Hori et al. (WO 02/075550), as applied by a translated U.S. Patent Application Publication No. 2004/0088510. The claims have also been rejected under 35 U.S.C. §102(e) as being anticipated by 2004/0088510. Applicants respectfully traverse these rejections.

Applicants submit that the instant application has a priority date of March 5, 2002, based on the claim of priority to Japanese patent application No. 2002-59179. On the other hand, Hori et al. (WO 02/075550) has an international publication date of September 26, 2002. Hori et al. (2004/0088510) has an effective filing date of September 15, 2003 (U.S. filing date) and the publication date of May 6, 2004. It is noted that Hori et al. (2004/0088510) has an international filing date of September 1, 2001. However, the Examiner cannot rely on the international filing date because Hori et al. (WO 02/075550) was published in Japanese (see MPEP §706.02(f)(1) Example 5). Accordingly, the priority date of the present application is earlier than the international publication date, the U.S. filing date, and the U.S. publication date of Hori et al. Applicants concurrently submit a certified translation of Japanese patent application No. 2002-59179 in order to perfect the claim of priority.

Accordingly, Hori et al. (WO 02/075550 and 2004/0088510) cannot be prior art of the present application under 35 U.S.C. 102. Applicants, therefore, respectfully solicit withdrawal of the rejection of the claims and favorable consideration thereof.

Claims Rejections under 35 U.S.C. §103(a)

Claims 7, 10, 14, and 15 have been rejected under 35 U.S.C. §103(a) as being unpatentable over Hori et al. (WO 02/075550) in view of Omata et al. This rejection is also respectfully traversed because Hori et al. is not prior art of the present application, as set forth above. As long as Hori et al. is not entitled to prior art of this application, the Examiner's reliance on the proposed combination of Hori et al. in view of Omata et al. no longer is acceptable. Applicants, therefore, respectfully solicit withdrawal of the rejection of claims 7, 10, 14, and 15 under 35 U.S.C. §103 and favorable consideration thereof.

Double Patenting

Claims 1-16 have been provisionally rejected on the ground of nonstatutory double patenting over claims 1-9 of the copending Application No. 10/522,176; and claims 1-16 have been provisionally rejected on the ground of nonstatutory double patenting over claims 1-15 of the copending Application No. 10/340,832.

As there has been no indication of allowable claims in the respective applications, the issue of whether a terminal disclaimer or a traversal of the holding of non patentable distinction is an appropriate response is not ripe at this time. Applicants respectfully request that the Examiner hold these rejections in abeyance until allowable subject matter is obtained in either the present application or copending Application Nos. 10/522,176 and 10/340,832.

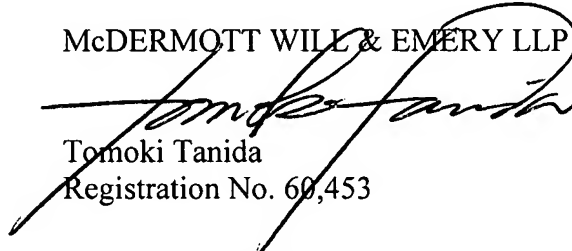
Conclusion

It should, therefore, be apparent that the imposed rejections have been overcome and that all pending claims are in condition for immediate allowance. Favorable consideration is, therefore, respectfully solicited.

To the extent necessary, a petition for an extension of time under 37 C.F.R. 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 500417 and please credit any excess fees to such deposit account.

Respectfully submitted,

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